

TALBOT COUNTY BOARD OF APPEALS  
Appeal No. 16-1650

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:00 p.m., August 22, 2016, on the application of **MANY BLESSINGS FARM, LLC** ("Applicant"). The Applicant is requesting three variances to permit the following development activities within the Shoreline Development Buffer and expanded buffer: (1) renovation and expansion of an existing two-story structure to within 44.1 feet of Mean High Water, which includes the installation of driveway, garage and sidewalk improvements to connect the renovated home to an existing, repurposed structure; (2) construction of a portion of a new driveway within the expanded buffer resulting from highly erodible soils; and (3) vertical expansion of the existing dwelling from 24 feet to 32 feet, 6 inches. The property is located at 27993 Villa Road, Easton, Maryland 21601 in the Rural Conservation (RC) zone. The Applicant, Many Blessings Farm, LLC, owns the property. The request is made in accordance with Chapter 190 Zoning, Article VI, §190-139, and Article IX, §190-182 of the *Talbot County Code* ("Code").

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman, Phillip Jones, Vice Chairman, John Sewell, Margaret Young, and Louis Dorsey, Jr.. The Applicants were represented at the hearing by Ryan Showalter, Esquire, 100 North West Street, Easton, Maryland 21601. Elisa Deflaux, Talbot County Environmental Planner, attended the hearing on behalf of Talbot County. Glenn D. Klakring was the attorney for the Board of Appeals.

It was noted for the record that each member of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for critical area variances with Attachment A.
2. Copy of a portion of the Talbot County tax map with the property highlighted.
3. Appeals Notice of Public Hearing.

4. Certificate of publication of the Notice of Public Hearing from the *Star-Democrat*.
5. Notice of hearing with a list of nearby property owners attached.
6. Copy of critical area variance requirements from the Code with the written responses of the Applicants to each applicable warrant attached as Exhibit B.
7. Staff Report dated July 25, 2016 with attachments.
8. Sign maintenance agreement.
9. Site Plan, Floor Plan and Elevation Plan prepared by Fink, Whitten & Associates.
10. Critical Area Commission comments dated August 9, 2016.
11. Independent Procedure Disclosure and Acknowledgement Form.
12. Aerial photograph.
13. Photographs from the staff site visit on April 26, 2016.
14. Photographs submitted by Ryan Showalter, Esquire.
15. Stakeout worksheets for the Board from Elizabeth Fink.

Mr. Showalter made an opening statement on behalf of the Applicant. He said the subject of the variance request is a proposed renovation of a house which was constructed entirely within the critical area in about 1900, about 90 years prior to the adoption of the critical area laws and before the buffer existed. He introduced his witnesses as Julie McMahan Thomas, one of the owners of the property, and Lars Erickson, East Bay Construction Services, LLC, P.O. Box 35, Newcomb, Maryland 21653.

He said that the house is in need of significant renovation. The owners intend to make the home their permanent home. They have five children and the house in its present condition and size cannot accommodate their family.

The property is unusual for the County in that it has a shoreline with some areas of highly erodible soils. The presence of highly erodible soils means that the normal 100-foot shoreline buffer is increased in an irregular pattern and increasing the buffer impact on the property. The proposed

renovations on the property are designed to minimize the impact on the buffer in two ways. The owners will remove some of the existing accessory structures from the property. Secondly, they propose to repurpose an existing separate two-story workshop into a living area, maintaining an existing footprint rather than expanding the house itself.

The parcel is approximately 74 acres, about 56 of which are located in the critical area. The house is located on the southwest portion of the parcel near Glebe Creek between 44 and 100 feet from the shoreline. All of the proposed renovations are to be made on the landward side of the house away from the shoreline.

Ms. Thomas testified that the house is not large enough to accommodate their family. She said that the proposed renovations are the minimum necessary to make the home adequate for their family. Their five children range in age from 11 to 23 years.

Mr. Erickson testified that in his approach to this project he emphasized the importance of keeping any expansion of the house to a minimum. He said that the owners believe it is important to keep the farmhouse feel of the current home and they propose to use as much of the existing structure as possible in the renovation. Because the existing house is entirely within the buffer any expansion will require a variance. The house is about 14 feet wide and is broken up into many small rooms that are not readably usable. The proposed renovations will include the removal and replacement of certain portions of the existing home.

Mr. Erickson explained some of the plans in detail. He said that the house will have a master bedroom on the first floor and three bedrooms upstairs. The repurposed workshop will have an additional two bedrooms for the older two children. The former workshop will also have a bathroom and a common area. The owners do not propose to increase the size of the workshop. However, they propose to install a concrete walkway from the house to the former workshop.

The core of the living area of the renovated home will be in the area of the existing home. It will include a kitchen and a modest great room. The rear and side porches will be constructed on areas currently occupied by a current parts of the house. The expansion of the home to allow for the proposed increase in size will be away from the shoreline. Because the owners intent to remain in their home through old age it is important to them that the master bedroom remain on the first floor.

Mr. Erickson addressed a suggestion made by the Critical Area Commission that the home be expanded toward an area of the property which would be outside of the critical area buffer. He explained that the owners had considered that area. However the area in question is at a higher grade and if the house were expanded in that direction it would be below grade creating serious drainage issues. So they chose that area for a driveway which can more easily use the existing higher topography without creating significant drainage problems. The proposed location of the home expansion will minimize the need for cutting and grading on the property.

The increase roof height is due solely to the low ceilings of the existing house.

Mr. Erickson and Mr. Showalter responded to several questions from the Board. They explained that the owners considered a separate garage elsewhere on the property outside the expanded buffer. However they chose to request an attached garage because a detached garage would have to be 80 to 90 feet from the house.

Mr. Showalter then introduced two aerial photographs (on one page) showing the development of nearby properties on Glebe Creek. The photographs were admitted as Applicant's Exhibit No. 1. He said that the photographs show that most of the existing homes in the area are larger than the size of the home proposed by the Applicant.

Mr. Erickson said that the existing basement and foundation seems to be sound.

Tammy S. Broll, 28033 Holly Road, Easton, a neighboring property owner on the west of the subject property, testified in support of the application.

Ms. Ruth Wirth, 27989 Woods Road, Easton, raised a question about an existing pond on the property. Mrs. Thomas said that there is an area which will provide a drainage area for the farmed area of the property. It was dry at the time of the hearing.

The Board then considered the application. After some discussion the Board, upon motion made and seconded, approved the requested variances, subject to certain conditions, by a vote of five to zero.

The Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of the ordinance result in unwarranted hardship to the property owner. The existing home is entirely within an expanded buffer area and any expansion requires a variance. The Applicants propose to renovate, modernize and expand the existing 100-year old farmhouse in order to accommodate their family of seven and provide a livable area for themselves through old age. They are limited by an expanded buffer due to certain atypical soil conditions on the property. While they could simply tear down the existing house and build another home elsewhere on the property the Applicants have presented a plan that preserves the look and feel of the property as that of a typical small farm property that existed in Talbot County during the late 1800s and early 1900s.
3. A literal interpretation of the ordinance will deprive the property owner of rights commonly enjoyed by other property owners in the same zone. The property was developed well before the establishment of the Critical Area restrictions that have severely limited options for the Applicants. Even with the proposed new structure the Applicants development activities will only cover a small portion of their property.

4. The granting of the variances will not confer upon the property owner any special privilege that would be denied by the ordinance to other owners of lands or structures within the same zoning district. The proposed expansion is modest given the size of similar properties in the area. Given similar circumstances other property owners would likely have the same privilege.
5. The variance request is not based on conditions or circumstances which are the result of actions by the Applicants, including the commencement of development activity before an application for variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
6. The granting of the variances will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat, and the granting of the variance will be in harmony with the general spirit and intent of the state Critical Area Law and the Critical Area Program. The requested variances will have little, if any, adverse environmental impact. Given the mitigation that will be required, the environmental impact may be positive.
7. The variances do not exceed the minimum adjustment necessary to relieve the unwarranted hardship.


HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE TALBOT COUNTY BOARD OF APPEALS,


RESOLVED, that the Applicant, **MANY BLESSINGS FARM** (Appeal No. 16-1650) is **GRANTED** the requested critical area variances consistent with the evidence presented to the Board of Appeals, subject to the following conditions:

1. The Applicant must remove the three existing accessory agricultural structures within the 100-foot shoreline development buffer, totaling 298 square feet, as shown on Sheet 1 of the Site Plan.
2. The Applicant shall make applications to and follow all of the rules procedures, and construction timelines as outlined by the Department of Permits and Inspections regarding new construction.
3. The Applicants shall commence construction on the proposed improvements within eighteen (18) months from the date of this Decision.
4. The Applicant must submit a Buffer Management Plan to address any mitigation required throughout the construction.
5. Natural vegetation of any area three times the extent of the approved disturbance in the buffer shall be planted in the buffer or on the property if planting in the buffer cannot be reasonably accomplished. The Applicant may obtain a Buffer Management Plan application through the Talbot County Department of Planning and Zoning.

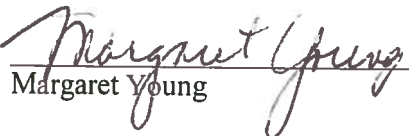
GIVEN OVER OUR HANDS, this 19th day of September, 2016.


**TALBOT COUNTY BOARD OF APPEALS**

  
Paul Shortall, Jr., Chairman

  
Phillip Jones, Vice Chairman

  
John Sewell

  
Margaret Young

  
Louis Dorsey, Jr.